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## **SECTION V**

# **MCPD IMPROVEMENT RECOMMENDATIONS**

### **INTRODUCTION**

This section presents the PSI team's recommendations for effecting changes in the MCPD that we believe will help it meet the goals for improvement defined in Section I of this report. Prior sections have addressed concerns about the MCPD's organizational and management structure, dealing with major issues, and promoting overall effectiveness through a more rigorous approach to case counting and weighting. This section presents additional recommendations for improvement of the Office's operations.

### **MANAGING THE MCPD**

In Section III, we outlined a model organizational structure and proposed an alternative approach to managing MCPD operations. One of our recommendations was to establish a Senior Management Team and other policy and planning teams to deal with various operational aspects of the office. The following recommendations relate to the responsibilities of those teams.

#### **RECOMMENDATION 7**

The Management Team should reevaluate the purpose and scope of MCPD data collection. The Management Team should assign a task force to create report formats in conjunction with end-users.

These reports should include: (1) case specific reports, (2) summary management reports reflecting aggregate data necessary for day-to-day management, and (3) executive level management reports that allow ready assessment of the overall effectiveness of the office.

**RECOMMENDATION 8**

The Management Team should continue to refine the MCPD *Practice and Procedure Manual*. Furthermore, it should periodically review the *Manual* and make recommendations for revisions consistent with the ethical and professional practice of law.

**OPERATIONS AND OPERATIONS SUPPORT**

Our assessment uncovered several areas where we believe the MCPD should focus attention in order to improve its performance.

**RECOMMENDATION 9**

The MCPD needs to conduct a thorough study of its entire operations, with particular focus on its support services, as the office moves from a back-end loaded to a front-end loaded organization.

In other sections of this report, we argue for a more front-end loaded defender system to improve the effectiveness and efficiency of representation services. At present, the system may be viewed as back-end loaded; for example, attorneys only appear to get fully trial ready when it appears that the case may go to trial. We believe there should be more representation activity at the front end, such as earlier assignment of counsel and earlier attorney-client contact. The change from a back-end to a front-end loaded system will require some staff reallocation and re-alignment of office operations. As a result, we believe the MCPD needs to develop a careful plan for effecting that change, a plan that would come from a thorough study of its operations.

**RECOMMENDATION 10**

The MCPD should improve the amount and quality of its office space and the other conditions under which its lawyers and staff meet with clients. It should also design its space to improve the efficiency and effectiveness of office operations.

We believe the space in the MCPD's central office in downtown Phoenix and the space in its Mesa office are inadequate. Further, since the expansion and renovation options

for these spaces appear to be limited, we believe the MCPD should consider relocating to more appropriate rental space that is close to the courthouses. Regardless of whether the MCPD relocates, it should hire a space management consultant to study the existing office space and recommend short and long term measures the MCPD could implement that would improve operational efficiency, space utilization and security.

In addition, the MCPD should improve the adequacy and appropriateness of the space in which it meets with clients regarding sensitive or confidential matters, especially in the jail and court settings.

#### **RECOMMENDATION 11**

The MCPD should give greater emphasis to early representation of clients (i.e., during the period from arrest to arraignment).

A public defender attorney and a paralegal staff member should be present at the initial appearance to make an initial client contact as well as raise and respond to issues such as indigency, probable cause, and pretrial release qualifications. Providing earlier representation would involve a significant increase in MCPD work that would require funding.

#### **RECOMMENDATION 12**

The MCPD should review and evaluate the pilot project in Trial Group E, including the expansion of horizontal representation.

An evaluation should be considered a necessary activity in any pilot project conducted by the MCPD. The evaluation does not need to be elaborate, but should focus on whether the project achieved its goals, the project's advantages and disadvantages, and the collection of sufficient data to enable the MCPD to decide whether to abandon or expand the project to the rest of the office.

#### **RECOMMENDATION 13**

The MCPD should increase its efforts to promote a culture of professionalism, trust, and courtesy toward clients, fellow workers, judges and the general public.

The emphasis on enhancing professionalism and courtesy is increasingly important given the high turnover rate of MCPD staff. Several complaints from both inside and outside the MCPD suggest there is room for improvement in these areas. For example, it should be a matter of common courtesy for an attorney to inform a judge that he or she is delayed or unable to appear for a scheduled hearing.

**RECOMMENDATION 14**

The MCPD should define a career development path for its attorneys. Case assignments should be linked to that career path.

In Section III, we outlined a possible career path for MCPD attorneys (Exhibit III-12). Certainly more needs to be done; for example, the MCPD needs to define the requirements and expectations of positions along this path. In our opinion, however, the existence of a career path would improve the office's effectiveness and efficiency and help reduce turnover. As used here, the term "career path" relates to a career ladder of increasing work complexity and responsibility, as distinguished from a pay or classification plan.

**RECOMMENDATION 15**

The MCPD should consider establishing a defender Resource center within the office. The Resource center should include an upgraded, electronic library.

Given the heavy workload handled by defenders in the Adult Trial Division and the lack of legal information and other support materials, we recommend establishing a departmental litigation support center. The resource center should include the library, which we believe should be upgraded to an electronic library. The Center could, perhaps, be operated by the appellate division of the MCPD.

**RECOMMENDATION 16**

Special actions brought by the MCPD should be handled by designated attorneys in the appellate division, rather than by the MCPD's training director.

## STAFFING PATTERNS AND SALARIES

We believe the MCPD needs additional staff to function effectively and efficiently. This includes additional staff in existing positions and staff in new positions. We also believe there needs to be some adjustment to salary levels for MCPD staff to bring them into line with salaries for similar positions at other agencies.

### RECOMMENDATION 17

The MCPD should increase its attorney-support staff ratio to 1:1.

The current attorney-support staff ratio is 1.0:0.7. After re-evaluating the MCPD's workflow and the functions of its existing support staff, we believe a more appropriate ratio is 1:1. There is a particular need for social workers (client services) personnel, transcriptionists and receptionists. There is also a need for additional administrators, investigators, and technical support personnel (when an appropriate level of automation is reached). In our opinion, this increase will better promote cost-efficient application of attorney resources and improve both the timeliness and quality of case processing.

### RECOMMENDATION 18

The MCPD should hire new staff in different functional areas.

We believe there is a need for new staff in functional areas that do not currently exist. These positions include administrators, such as budget and human resources personnel, interpreters, and a public information officer.

The MCPD collects more detailed information about cases and operations than any other defender office we are aware of. (See Appendix B). Much of these data are collected in response to numerous external requests for information or to provide the MCPD with a foundation to respond to external issues. The data are regarded by other agencies as accurate and have been relied on by OMB and other IRA departments. In order to enhance its internal focus and operate more effectively, the MCPD would benefit from a reduction in the number of external issues it must address or an increase in administrative and technical staff.

The addition of a budget and human resources person will not only give the MCPD greater autonomy, it will make the office more effective. The addition of a public information officer also is important, in our opinion, to help the MCPD (1) improve communications with other justice system stakeholders and the general public, (2) better articulate the issues facing the MCPD (e.g., achievements and challenges), and (3) demonstrate the MCPD's public value. Other justice agencies in Maricopa County have employees—sometimes more than one—assigned to this important function.

#### **RECOMMENDATION 19**

The MCPD should review and revise its personnel classification and compensation plan to bring that plan into better alignment with similar plans in client-oriented law firms.

The salaries of MCPD attorneys should be comparable—for comparable experience and expertise—to the compensation of other government-paid, indigent defense attorneys in Phoenix, including those working in the municipal and federal systems. Also, the salaries of non-attorney personnel should be comparable to those of other criminal justice professionals with duties of similar complexity and responsibility. Both changes are needed in order to attract and retain the services of competent and qualified personnel.

In particular, we believe the MCPD should have pay scales that are comparable to those in the County Attorney's Office to ensure that there is parity between employees with equal tenure and talent in the two offices.

## **TRAINING AND STAFF DEVELOPMENT**

Some of the challenges facing the MCPD that we uncovered in our interviews could be addressed with better training.

**RECOMMENDATION 20**

The MCPD should review its office-wide training plan to promote staff development. Specifically, the MCPD should:

- Expand the number and refine the content of its training programs;
- Survey its clients and use the survey findings to refine its training programs;
- Consider establishing linkages with corporations in Maricopa County to access private sector training expertise; and
- Seek funding to allow more staff to attend professional meetings and workshops inside and outside of Arizona.

The relative lack of experience of staff and the high turnover rates are evidence of the need for training at all levels. In particular, we recommend training in (1) court procedures, (2) professionalism, (3) how to effectively and efficiently handle a very heavy caseload, and (4) management and leadership. Other training classes in such areas as (1) customer service, (2) conflict resolution, (3) team building, and (4) communication also would be worthwhile. In all of its training experiences, the MCPD should emphasize that departmental policy, as well as professionalism, requires courteous and respectful treatment of clients and court personnel and procedures.

The MCPD should implement its plan to survey its clients in order to learn clients' perspectives that influence their relationships with the MCPD and its staff. Those findings should be used to educate staff and improve service delivery to clients.

The MCPD should allocate more funds to enable administrative and other staff to attend professional meetings and workshops inside and outside of Arizona in order to broaden their perspectives on indigent defense service delivery and justice system improvement possibilities.

**RECOMMENDATION 21**

In developing a training plan for management and supervisory personnel, the MCPD should consider establishing linkages with:

- Private-sector corporations headquartered in Maricopa County that have management training expertise, and
- Out-of-state public defender offices that have recognized, well-developed management capabilities.

Outreach efforts to corporations and other public defender offices are likely to identify a substantial number of resources (e.g., training packages, materials and tools, referrals to exceptional training consultants) and best practices that the MCPD could use to improve its own training programs.

**RECOMMENDATION 22**

The MCPD as an organization and through its staff should continue to expand its participation in state and national organizations concerned with improving the delivery of defender services.

We recognize that the MCPD already participates in national organizations (e.g., NLADA). In our opinion, however, that participation could be expanded and extended to a larger number of staff. In addition, we believe the MCPD should expand its linkages with the local bar, in particular the Arizona Attorneys for Criminal Justice.

**AUTOMATION**

While there are some positive features to the MCPD's existing management information system, there are some areas that need improvement.

**RECOMMENDATION 23**

The MCPD should expand its written, office-wide automation plan to include a system-wide focus.



The automation plan and policies should be designed to promote integration, coordination and cooperation between and among all entities within the criminal justice system and to accommodate future growth.

**RECOMMENDATION 24**

The MCPD should employ or have immediate and continuous access to sufficient numbers of technical personnel familiar with its computers, departmental functions, and procedures in order to reengineer its information system and automate that system.

As noted in an earlier recommendation, we believe the MCPD needs sufficient numbers of its own administrative and technical staff who are dedicated to the automation activities of the Office. Barring that possibility, the MCPD needs technical staff who have a complete understanding of its departmental system and can work cooperatively with other justice system agencies in developing the automated linkages that are important to the effective and efficient delivery of defender services.

**RECOMMENDATION 25**

The MCPD should re-engineer its workflow and refine all of its current office procedures in preparation for automation.

We have all observed and appreciate how technology can eliminate duplication of effort and thus make more efficient use of resources. Among the potential automation improvements are:

- Document generation, including subpoenas;
- Digital audio recording equipment for witness interviews; and
- Automated calendars (rather than relying on minute entries) through the use of personal digital assistants, such as Palm Pilots.

The MCPD needs to think creatively about how to maximize its use of existing technology to achieve those efficiencies and, if necessary, obtain outside assistance.

**RECOMMENDATION 26**

The MCPD should continue to coordinate with Maricopa County's Chief Information Officer and ensure early and meaningful participation in the development of the new criminal justice information system.

Our interviews suggest that the MCPD is actively and meaningfully involved in developing the new information system through its participation on a cross-agency work group. This effort needs to continue so that the needs and interests of the MCPD are reflected in the final design and features of the system. For example, the MCPD would benefit greatly from having criminal histories, police reports and other data available in electronic form through the information system.

**DEMONSTRATING PUBLIC VALUE**

A major focus of our study was to identify opportunities for and approaches to demonstrating the public value of MCPD services.

**RECOMMENDATION 27**

The MCPD should continue to take a leadership role in improving the defense function in Maricopa County, especially by continuing to (1) provide training for other criminal defense service providers, (2) improve its coordination with those providers, and (2) educate the public about its services.

There are several opportunities we believe exist to help achieve this objective, including:

- Provide orientation to police and other relevant entities regarding defender functions and share any other expertise the department deems appropriate.
- Produce and distribute a booklet to inform its clients and the public of court procedures, their rights under the law, as well as the role of the public defender.

- Apply for local and outside funding to develop pilot projects directed at making the legal system in Maricopa County operate more efficiently and promoting the reform of criminal law, practice and procedure.
- Establish a community partnerships program with local community-based organizations.

## PUBLIC DEFENDER AUTONOMY

In Section II, we identified several areas that we believe need review to ensure autonomy of the indigent defense function, including (1) the absence of a fixed term of office for the public defender, (2) the lack of an external process to select the public defender, (3) the MCPD's lack of control over its budget, and (4) the fragmentation of the defender function.

### RECOMMENDATION 28

Maricopa County should create a structure and process to assure appropriate levels of accountability and autonomy for indigent defense.

There are several aspects to this structure and process.

- PD selection process. Consistent with national standards, Maricopa County should establish a Board of Trustees for indigent defense. The function of this Board would be to define the mission and policies relating to indigent defense with the ratification of the Board of Supervisors. Its oversight should consist of (1) defining the structure and delivery of indigent defense services; (2) recruiting, selecting, retaining and disciplining indigent defense department directors; (3) reviewing and approving budget and personnel requests from indigent defense departments; and (4) submitting an annual indigent defense report to the Board of Supervisors for its review and approval. The Board of Supervisors should ensure that the Board's composition guarantees the accountability and autonomy of the indigent defense function.
- Fixed term. Consistent with national standards, the indigent defense department heads, including the Public Defender, should be appointed for a fixed term of four

years like the County Attorney or five years like the Presiding Judge, and should only be removable for cause pursuant to standard administrative procedures governing termination of employment of County personnel.

- Review of IRA structure. Maricopa County should review the structure of the IRA.
- Standards of practice. The MCPD and other indigent defense departments should establish specific standards of practice to provide quality services to their clients and the community. In developing Arizona-specific standards, consideration should be given to the NLADA Performance Guidelines for Criminal Defense Representation.
- Policies and procedures. Maricopa County should adopt policies and practices, including budgetary policies, to ensure the earliest disposition of criminal cases consistent with constitutional and professional standards. Some specific suggestions include (1) promoting the MCPD's presence at initial appearance, and (2) judicial hearings to promote early dispositions in appropriate cases promptly after initial appearance and the filing of charges.